



November 18, 2011

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554
Via Electronic Filing

Re: *Ex Parte Communication*, WC Docket No. 11-59

Dear Ms. Dortch,

On November 16, 2011, Doug Dimitroff, Tony Gioffre, and Chris Fisher of the New York State Wireless Association (“NYSWA”), Ed Donohue of Virginia Wireless Association (“VWA”), Kimberly Adams of the Georgia Wireless Association (“GWA”), Robert Jystad, Julian Quattlebaum, and Sean Scully of the California Wireless Association (“CalWA”) and Jonathan Campbell and the undersigned of PCIA—The Wireless Infrastructure Association (“Parties”) met with Bill Dever, Wesley Platt, Tim Stelzig, and Matthew Warner of the Wireline Competition Bureau and Dan Abeyta, Don Johnson, Patrick O’Brien, Jeffery Steinberg, and Jane Jackson of the Wireless Telecommunications Bureau of the Federal Communications Commission (“FCC” or “Commission”).

NYSWA, VWA, GWA, and CalWA introduced their volunteer, non-profit professional associations whose memberships include carriers, infrastructure providers, professional services firms, and a variety of support services that make up the wireless industry within their states. These organizations provide general awareness of the wireless industry, educate consumers and public officials about wireless technology and issues, and engage in civic service in partnership with charitable organizations across the country.

The Parties discussed how immediate Commission action in the Broadband Acceleration docket is essential to meeting national goals for wireless broadband. To spur competition and innovation in wireless broadband, the Parties urged the Commission to assist with streamlining the deployment wireless infrastructure at the state and local level through national policy. The discussion focused on local and state barriers to wireless deployment. Each State Wireless Association detailed the unique climate for wireless deployment in each of their states.

The Parties discussed why full zoning review for the addition or modification of antennas to existing facilities slows deployment. GWA discussed Georgia's Advanced Broadband Collocation Act, which streamlines the discretionary zoning review process for collocations and modifications. The Parties highlighted how the collocation siting process takes on average less than one month in Georgia, the time it takes to get a building permit, while in all other states without similar legislation the zoning process alone can take months and well exceed the FCC’s Shot Clock timelines. The Parties urged that the Commission support and encourage states to enact regulations that streamline wireless siting, like Georgia's Advanced Broadband Collocation Act.

The Parties noted that the public's lack of understanding about the wireless industry and technology serves as a barrier to broadband deployment. The Parties explained that land use decisions are too often based improperly on concerns about radiofrequency emissions and aesthetics. This problem is especially apparent in the deployment of Distributed Antenna System ("DAS"), which utilize existing infrastructure in the right of way. The Parties noted that wireless facilities are often treated as undesirable uses rather than a necessity. Unfortunately, the valuable utility that wireless infrastructure and services provide to first responders, citizens and businesses is too often lost in the conversation at the local level. The Parties asked that the Commission remain engaged on the barriers that RF concerns create and suggested that effective public education, such as creating a clearinghouse of RF studies, can address the concerns of the public about the safety of cell sites.

The Parties also discussed the increased cost that administrative barriers to deployment can add to the deployment of broadband. GWA and NYSWA discussed how annual registration ordinances, which require that all owners of wireless facilities in a jurisdiction register annually and pay exorbitant fees, ultimately discourage collocation and chill deployment due to the added operational costs within the jurisdiction.

The Parties noted that DAS is subject to similar barriers to deployment as macro sites. The Parties stated that, as far as its regulatory environment is concerned, DAS and macro sites are starting to be treated the same for local siting purposes, with new ordinances seeking to require discretionary land use review for pole attachments in the right of way. CalWA noted that a significant amount of litigation filed in California focuses on DAS because the local regulatory environment held out DAS as a preferred method and then denied permits regardless.¹

The Parties highlighted how inconsistencies in the interpretation of Commission rules, specifically sections 253 and 332 of the Communications Act, are leading to significant barriers counter to the original intent of the rules.² The Parties urged that Commission action is necessary to clarify its rules in a manner consistent with the original congressional intent and the current state of wireless network deployment, which focuses on increased capacity as well as coverage. NYSWA suggested the Commission issue an affirmative interpretation of §332(c)(7)(A) of the Communications Act, clarifying that Congress' preservation of local zoning authority and the establishment of certain limitations was not intended to expand local zoning authority to assess the technical need for facilities. CalWA explained that if an ordinance inhibits or prevents new entrants from entering the market in that jurisdiction, it should be deemed an effective prohibition.

The Parties also suggested that the Commission revisit the *Shot Clock Ruling*, due to the ease with which municipalities circumvent its purpose and goals.

In conclusion, the Parties wish to express their gratitude to the Commission for affording them the time to meet together and discuss the barriers to deployment of broadband faced at the local level for use in this very critical proceeding for the future of the wireless industry.

¹ *Id.* At 6-7.

² Comments of California Wireless Association, WC Docket No. 11-59 at 7 (Sept. 30, 2011) ("CalWA Comments").

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter will be filed via ECFS with your office. Please do not hesitate to contact the undersigned with any questions.

Sincerely,

_____/s/
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Cc: Bill Dever; Wesley Platt; Tim Stelzig; Matt Warner; Dan Abeyta; Don Johnson; Patrick O'Brien; Jeffery Steinberg; Jane Jackson